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MATT BLUNT
Secretary of State
Administrative Rules Division
RULE TRANSMITTAL

SECRETARY OF STATE
ADMINISTRATIVE RULES

A "SEPARATE" rule transmittal sheet must be used for EACH individual rulemaking.

A. Rule Number 4 CSR 240-13.015
Diskette File Name 240-13.015 Word 2000
Name of Person to call with questions about this rule:
Content Lera Shemwell Phone 573-751-7431 FAX 573-751-9285
Data Entry Susan L. Sundermeyer Phone 573-751-4335 FAX Same as above
Email Address lerashemwell@psc.state.mo.us
Interagency Mailing Address Governor Office Building, 200 Madison St., Suite 800, Jefferson City, MO
Statutory Authority 386.250(6) Current RSMo date 2000
Date Filed With the Joint Committee on Administrative Rules Exempt per Sections 536.024 and 536.037, RSMo 2000, and Executive Order No. 97-97 (June 27, 1997)

B. CHECK, IF INCLUDED:

- | | |
|--|---|
| <input checked="" type="checkbox"/> This transmittal completed | <input type="checkbox"/> Incorporation by reference materials, if any |
| <input checked="" type="checkbox"/> Cover letter | <input type="checkbox"/> Authority with history of the rule |
| <input checked="" type="checkbox"/> Affidavit | <input type="checkbox"/> Public cost |
| <input type="checkbox"/> Forms, number of pages <u> </u> | <input type="checkbox"/> Private cost |
| <input type="checkbox"/> Fiscal notes | <input type="checkbox"/> Hearing and comment period |

C. RULEMAKING ACTION TO BE TAKEN

- ☐ Emergency Rulemaking, (check one) ☐ rule ☐ amendment ☐ rescission ☐ termination
MUST include effective date
- ☒ Proposed Rulemaking (check one) ☐ rule ☒ amendment ☐ rescission
- ☐ Order of Rulemaking (check one) ☐ rule ☐ amendment ☐ rescission ☐ termination
MUST complete page 2 of this transmittal
- ☐ Withdrawal (check one) ☐ rule ☐ amendment ☐ rescission ☐ emergency
- ☐ Rule action notice
- ☐ In addition
- ☐ Rule under consideration

D. SPECIFIC INSTRUCTIONS: Please indicate any special instructions (e.g., publication date preference, identify material to be incorporated by reference, or forms included herein).

JCAR Stamp

RULE TRANSMITTAL (PAGE 2)

E. ORDER OF RULEMAKING: Rule Number _____

1a. Effective Date for the Order

☐ Statutory 30 days

Specific date _____

1b. Does the Order of Rulemaking contain changes to the rule text?

☐ YES

☐ NO

1c. If the answer is YES, please complete section F. If the answer is NO, **STOP** here.

F. Please provide a complete list of the changes in the rule text for the order of rulemaking, indicating the specific section, subsection, paragraph, subparagraph, part, etc., where each change is found. It is especially important to identify the parts of the rule that are being deleted in this order of rulemaking. This is not a reprinting of your order, but an explanation of what sections, subsections, etc. have been changed since the original proposed rule was filed.

(Start text here. If text continues to a third page, insert a continuous section break and, in section 3, delete the footer text. DO NOT delete the header, however.)

NOTE: ALL changes **MUST** be specified here in order for those changes to be made in the rule as published in the *Missouri Register* and the *Code of State Regulations*.

Add additional sheet(s), if more space is needed.



Commissioners
KELVIN L. SIMMONS
Chair
CONNIE MURRAY
STEVE GAW
BRYAN FORBIS
ROBERT M. CLAYTON III

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY, MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://www.psc.mo.gov>

ROBERT J. QUINN, JR.
Executive Director
WESS A. HENDERSON
Director, Utility Operations
ROBERT SCHALLENBERG
Director, Utility Services
DONNA M. PRENGER
Director, Administration
DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge
DANA K. JOYCE
General Counsel

November 3, 2003

Hon. Matt Blunt
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, MO 65102

Dear Secretary Blunt:

RE: 4 CSR 240-13.015 DEFINITIONS

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the proposed amendment lawfully submitted by the Missouri Public Service Commission on this 3rd day of November 2003.

The Missouri Public Service Commission has determined and hereby certifies that this proposed amendment will not have an economic impact on small business. The Missouri Public Service Commission also certifies that it has conducted an analysis of whether or not there has been a taking of real property pursuant to section 536.017, RSMo and that this proposed amendment does not constitute a taking of real property under relevant state and federal law.

Statutory Authority: Section 386.250, RSMo 2000.

If there are any questions regarding the content of this proposed amendment, please contact:

Lera L. Shemwell, Senior Counsel
Missouri Public Service Commission
200 Madison Street
Post Office Box 360
Jefferson City, Missouri 65102
learshemwell@psc.state.mo.us

Sincerely,

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

Enclosures

AFFIDAVIT


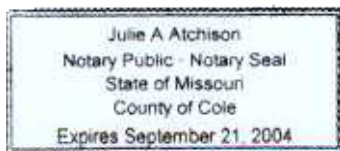
STATE OF MISSOURI)
)
COUNTY OF COLE)

I, Joseph L. Driskill, Director of the Department of Economic Development, first being duly sworn on my oath state that it is my opinion that the cost of the **Proposed Amended Rule – 4 CSR 240-13.015 – Definitions**, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.



Joseph L. Driskill
DIRECTOR
Department of Economic Development

Subscribed and sworn to before me this 23RD day of September, 2003.
I am commissioned as a notary public within the County of
Cole, State of Missouri, and my commission expires on
September 21, 2004


NOTARY PUBLIC

Title 4 —DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240 —Public Service Commission
Chapter 13 —Service and Billing Practices for Residential
Customers of Electric, Gas and Water Utilities

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SECRETARY OF STATE
ADMINISTRATIVE RULES

PROPOSED AMENDMENT

4 CSR 240-13.015 Definitions. The Commission is adding definitions for the terms “Applicant” and for “Denial of Service.”

PURPOSE: This amendment adds definitions for terms that are used in this chapter, specifically for “Applicant” and “Denial of Service.”

(1) The following definitions shall apply to this chapter:

(A) Applicant means an individual(s) who has applied to receive residential service from the utility;

(~~A~~/B) Bill means a written demand for payment for service and the taxes and franchise fees related to it;

(~~B~~/C) Billing period means a normal usage period of not less than twenty-six (26) nor more than thirty-five (35) days for a monthly billed customer nor more than one hundred (100) days for a quarterly billed customer, except for initial, corrected or final bills;

(~~C~~/D) Complaint means an informal or formal complaint under 4 CSR 240-2.070;

(~~D~~/E) Customer means a person or legal entity responsible for payment for service except one denoted as a guarantor;

(~~E~~/F) Cycle billing means a system which results in the rendition of bills to various customers on different days of a month;

(~~F~~/G) Delinquent charge means a charge remaining unpaid by a monthly billed customer at least twenty-one (21) days and for at least sixteen (16) days by a quarterly billed customer from the rendition of the bill by the utility or a charge remaining unpaid after the preferred payment date selected by the customer;

(~~G~~/H) Delinquent date means the date stated on a bill, which shall be at least twenty-one (21) days for a monthly billed customer, and at least sixteen (16) days for a quarterly billed customer from the rendition of the bill or which shall be the preferred payment plan date selected by the customer, after which the utility may assess an approved late payment charge in accordance with a utility tariff on file with the commission;

(I) Denial of service means the utility’s refusal to commence service upon an applicant’s request for service at a particular location;

(~~H~~/J) Deposit means a money advance to a utility for the purpose of securing payment of delinquent charges which might accrue to the customer who made the advance;

(~~I~~/K) Discontinuance of service or discontinuance means a cessation of service not requested by a customer;

(~~J~~/L) Due date means the date stated on a bill when the charge is considered due and payable;

(~~K~~/M) Estimated bill means a charge for utility service which is not based on an actual reading of the meter or other registering device by an authorized utility representative;

(*[L/N]*) Extension agreement means a verbal agreement between the utility and the customer extending payment for fifteen (15) days or less;

(*[M/O]*) Guarantee means a written promise from a third party to assume liability up to a specified amount for delinquent charges which might accrue to a particular customer;

(*[N/P]*) In dispute means any matter regarding a charge or service which is the subject of an unresolved inquiry;

(*[O/Q]*) Late payment charge means an assessment on a delinquent charge in accordance with a utility tariff on file with the commission and in addition to the delinquent charge;

(*[P/R]*) Preferred payment date plan means a commission-approved plan offered at the utility's option in which the delinquent date for the charges stated on a bill shall occur on the same day during each billing period as selected by the customer;

(*[Q/S]*) Purchased gas adjustment clause means the adjustment procedure approved by the commission to recognize variations in the cost of purchased gas;

(*[R/T]*) Rendition of a bill means the mailing or hand delivery of a bill by a utility to a customer;

(*[S/U]*) Residential service or service means the provision of or use of a utility service for domestic purposes;

(*[T/V]*) Seasonally billed customer means a residential customer billed on a seasonal basis in accordance with a utility tariff on file with the commission;

(*[U/W]*) Settlement agreement means an agreement between a customer and a utility which resolves any matter in dispute between the parties or provides for the payment of undisputed charges over a period longer than the customer's normal billing period;

(*[V/X]*) Tariff means a schedule of rates, services and rules approved by the commission;

(*[W/Y]*) Termination of service or termination means a cessation of service requested by a customer;

(*[X/Z]*) Utility means an electric, gas or water corporation as those terms are defined in section 386.020, RSMo; and

(*[Y/AA]*) Utility charges means the rates for utility service and other charges authorized by the commission as an integral part of utility service.

*AUTHORITY: sections 386.250(6), RSMo 2000 and 393.140(11), RSMo 2000.**

Original rule filed Sept. 22, 1993, effective July 10, 1994.

**Original authority: 386.250(6), RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991 and 393.140(11), RSMo 1939, amended 1949, 1967.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the Commission's offices within thirty (30) days after publication of this notice in the Missouri Register, and should include a

reference to Commission Case No. AX-2003-0574 or to the Denial of Service Rule. If comments are submitted by paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via the Commission's electronic filing and information system at <<http://www.psc.state.mo.us/efis.asp>>. Comments may also be submitted at the public hearing. The Commission will hold a public hearing at which the Commission will take sworn testimony concerning the reasonableness of the rule. The hearing is scheduled for January 26, 2004, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to provide testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.



Commissioners
KELVIN L. SIMMONS
Chair
CONNIE MURRAY
STEVE GAW
BRYAN FORBIS
ROBERT M. CLAYTON III

Missouri Public Service Commission

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Secretary/Chief Regulatory Law Judge
DANA K. JOYCE
General Counsel

November 3, 2003

Mr. Joseph Driskill, Director
Department of Economic Development
Small Business Analysis
301 West High Street
Jefferson City, MO 65102

RE: Case No. AX-2003-0574
Small Business Analysis for Proposed Rule 4 CSR 240-13.015 Definitions

Dear Mr. Driskill

Executive Order 03-15 requires state agencies to determine whether implementation of a proposed rule making will have direct economic impact on small businesses. A small business is defined in the Executive Order as "a for-profit enterprise consisting of fifty (50) or fewer full or part-time employees." Pursuant to the order, the Commission has completed a "small business analysis" of the above referenced proposed amended rule. The following statement contains the Commission's determinations as required by the Executive Order:

- 1 Small utility companies will not be affected by the rule.**
- 2 The rule will apply to all gas, electric and water utility companies, including small local gas distribution companies, one electric company, and small water companies.**
- 3 The Commission Staff requested fiscal impact information from all affected utilities and none of the small businesses replied that they would suffer any financial impact.**
- 4 The Commission expects that neither it nor any other state agency will incur costs or receive any benefit from implementation of the proposed rule.**
- 5 Because it has received no indication that any small business will be impacted by the rule the Commission found it unnecessary to, and did not make efforts to reduce the impact on small business.**

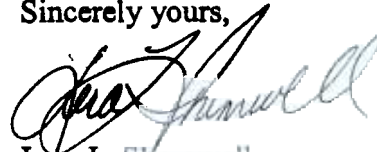
Mr. Joseph Driskill
November 3, 2003
Page 2

6. The Commission invited all utilities to participate in a roundtable discussion hosted in Jefferson City in fall 2002, provided draft rules for company comment prior to initiation of the rulemaking, and after initiation of the rulemaking it asked companies to submit fiscal impact statements.
7. There is no comparable federal rule as regulation of in-state activities of local public utilities is a matter traditionally left to the states. This rule is, however, quite similar to the Commission's discontinuance of service rule, which has been in place since 1975 and was amended in 1994.

The Commission has received no information that there will be any impact on small business, and so has determined that there is no impact on small business. Please see the attached certificate.

Please let me know if you have any questions concerning this proposed rule

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Lera L. Shemwell", is written over a light blue circular stamp.

Lera L. Shemwell
Senior Counsel
Missouri Public Service Commission
(573) 751-7431
(573) 751-9285 (Fax)

Commissioners
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General Counsel

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

Re: Case No. GX-2002-478
"Takings" Analysis for Proposed Rule 4 CSR 240-13.035 Denial of Service

Dear Mr. Roberts:

Executive Order 93-13 requires state agencies to undertake a "takings analysis" of each proposed rule or regulation in light of the United States Supreme court decision in *Lucas v. South Carolina Coastal Council*, 112 S.Ct. 2886 (1992). Pursuant to that order, I have undertaken a "takings analysis" of the above-referenced proposed rulemaking. In *Lucas*, the Court held that state regulation depriving an owner of real property of all economically beneficial use of that property constitutes a "taking" under the Fifth and Fourteenth Amendments of the U.S. Constitution, for which the property owner must be compensated. The Court also held that when state regulations compel a property owner to suffer a permanent physical invasion of his/her property, such an invasion is compensable.

The proposed new rule implements a policy that Missouri gas, electric and water companies may not require, as a condition of receiving service, payment for residential service in the name of a person other than the applicant, unless the utility can reasonably demonstrate that the applicant received substantial benefit from the service provided in the other person's name. This section does not affect the utilities' creditor rights and remedies otherwise permitted by law. This proposed new rule, therefore, does not implicate the takings clause of the U.S. Constitution, because it does not deprive the utility of any of its creditor rights or remedies permitted by law against any person who is legally obligated to pay a debt.

Please let me know if you have any questions concerning this proposed rule.

Sincerely yours,



Lera L. Shemwell
Senior Counsel
(573) 751-7431
(573) 751-9285 (Fax)